

PROOF OF SERVICE

(FRCP 5)

I am a citizen of the United States and a resident of the State of California. I am employed in San Diego, State of California, in the office of a member of the bar of this Court, at whose direction the service was made. I am over the age of eighteen years, and not a party to the within action. My business address is 4401 Eastgate Mall, San Diego, California 92121. On the date set forth below I served the documents described below in the manner described below:

1. EXPERT REPORT OF MARK S. BERNINGER PURSUANT TO FED.R.CIV.P. 26

☐ (BY U.S. MAIL) I am personally and readily familiar with the business practice of Cooley Godward LLP for collection and processing of correspondence for mailing with the United States Postal Service, and I caused such envelope(s) with postage thereon fully prepaid to be placed in the United States Postal Service at San Diego, California.

☐ (BY MESSENGER SERVICE) by consigning the document(s) to an authorized courier and/or process server for hand delivery on this date. See attached Proof of Personal Service.

☐ (BY FACSIMILE) I am personally and readily familiar with the business practice of Cooley Godward llp for collection and processing of document(s) to be transmitted by facsimile and I caused such document(s) on this date to be transmitted by facsimile to the offices of addressee(s) at the numbers listed below.

☒ (BY OVERNIGHT MAIL) I am personally and readily familiar with the business practice of Cooley Godward llp for collection and processing of correspondence for overnight delivery, and I caused such document(s) described herein to be deposited for delivery to a facility regularly maintained by Federal Express for overnight delivery.

on the following part(ies) in this action:

1 Thomas W. Banks, Esq.
2 Finnegan, Henderson, Farabow
3 245 First Street, 18th Floor
4 Cambridge, MA 02142
5 Tel: (617) 444-8423
6 Fax: (617) 444-8608
7 **Attorneys for Vysis, Inc.**

John H. L'Estrange, Jr. Esq.
Wright and L'Estrange
701 B Street, Suite 1550
San Diego, CA 92101
Tel: (619) 231-4844
Fax: (619) 231-6710
Attorneys for Vysis, Inc.

5 L. Scott Burwell, Esq.
6 Finnegan, Henderson, Farabow, Garrett &
7 Dunner, LLP
8 1300 I Street, N.W.
9 Washington, DC 20005-3315
10 Tel: (202) 408-4000
11 Fax: (202) 408-4400
12 **Attorneys for Vysis, Inc.**

13 Executed on September 5, 2001, at San Diego, California.

14 
15 Sylvia M. Tether